

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PHILLIP MAYES,

Plaintiff,

v.

CAROLYN W. COLVIN,

Defendant.

Case No. [15-cv-02731-MEJ](#)

**ORDER RE: FAILURE TO FILE
STATEMENT OF ADMINISTRATIVE
RECORD**

On July 13, 2015, the Court ordered the parties to meet and confer for the purpose of determining whether they are able to file a joint statement of the Administrative Record or whether it is necessary for the parties to file separate statements. After the meet and confer, the Court directed the parties to file either a joint statement or separate statements of the Administrative Record, summarizing: (1) the procedural history of the case; (2) testimonial evidence from the hearing(s) before the Administrative Law Judge; and (3) all relevant medical evidence of record. *Id.* On October 16, 2015, Plaintiff filed a Motion for Summary Judgment, but no separate or joint statement of the record was filed.

Accordingly, the Court ORDERS the parties to meet and confer by November 2, 2015 to determine whether they will file a joint or separate statement of the record. The joint or separate statement shall be filed by November 16, 2015. Defendant's cross-motion (and separate statement of the record, if no joint statement is filed) is due December 14, 2015. Plaintiff's reply (and reply statement of the record, if Defendant files a separate statement) is due December 28, 2015.

A. Joint Statement of the Administrative Record

If the parties are able to agree on a joint statement of the Administrative Record, the statement shall be signed by both parties and filed by the deadline above. Each fact must be set forth in a separately numbered paragraph and cite to a specific portion of the Administrative Record where the fact finds support.

B. Separate Statements of the Administrative Record

If the parties are unable to agree on a joint statement, they shall comply with the following

requirements for separate statements of the Administrative Record.

1. Plaintiff's Separate Statement of the Administrative Record

By the deadline above, Plaintiff must file a statement, separate from the motion and memorandum of law, setting forth each fact from the Administrative Record on which Plaintiff relies in support of the motion. Each fact must be set forth in a separately numbered paragraph and cite to a specific portion of the Administrative Record where the fact finds support. A failure to submit a separate statement in this form may constitute grounds for denial of the motion.

2. Defendant's Separate Statement of the Administrative Record

At the time Defendant files the cross-motion for summary judgment or for remand, Defendant must also file a statement, separate from the motion and memorandum of law, setting forth: (a) for each paragraph of Plaintiff's separate statement, a correspondingly numbered paragraph indicating whether Defendant disputes the statement of fact as set forth by Plaintiff and, if disputed, a reference to the specific portion of the Administrative Record supporting Defendant's position; and (b) any additional facts from the Administrative Record on which Defendant relies in support of the motion. Each additional fact must be set forth in a separately numbered paragraph and cite to a specific portion of the Administrative Record where the fact finds support.

3. Reply Statement of Facts

If Defendant sets forth additional facts in the cross-motion, Plaintiff shall file a statement, separate from the reply brief, with correspondingly numbered paragraphs indicating whether Plaintiff disputes the statement of fact as set forth by Defendant and, if disputed, a reference to the specific portion of the Administrative Record supporting Plaintiff's position.

IT IS SO ORDERED.

Dated: October 19, 2015



MARIA-ELENA JAMES
United States Magistrate Judge